

FILED
STATESVILLE, N.C.

MAY 11 2005

U.S. DISTRICT COURT
W. DIST. OF NC

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL NO. 3:04CV510

(3:97CR22-7)

ALONZO MACKINS, JR.,

Petitioner,

Vs.

UNITED STATES OF AMERICA,

Respondent.

ORDER

THIS MATTER is before the Court on the Petitioner's motion to reconsider the dismissal of his motion pursuant to 28 U.S.C. § 2255 as untimely filed. The motion is granted.

The Petitioner correctly points out that the Court confused the time periods in his case with those of his brother, Willie Mackins. The Petitioner's petition for a writ of *certiorari* was denied by the United States Supreme Court on October 6, 2003. *United States v. Mackins*, 540 U.S. 895 (2003). As a result, his motion pursuant to 28 U.S.C. § 2255 which was filed in this Court on September 20, 2004, was timely filed.

IT IS, THEREFORE, ORDERED that the Petitioner's motion to reconsider is hereby **GRANTED**.

IT IS FURTHER ORDERED that the dismissal of the Petitioner's motion pursuant to 28 U.S.C. § 2255 as untimely is **STRICKEN** and the motion is deemed timely filed.

The Clerk of Court shall reopen this matter as a pending civil action and forward the appropriate files to the undersigned's chambers.

Signed: May 11, 2005

A handwritten signature in black ink, appearing to read 'LH Thornburg', written over a horizontal line.

Lacy H. Thornburg
United States District Judge

